IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

TUESDAY, THE 16TH OCTOBER 2007 / 24TH ASWINA 1929

CRP.No. 1186 of 2005()

AGAINST THE ORDER IN IA 2306/05 IN IA 1916/04 IN OS.896/1992 of ADDL.M.C.,KOZHIKODE
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REVN. PETITIONERS:PETITIONERS/DEFENDANTS 1 TO 5
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1. M.THYAGARAJAN, S/O.BALAKRISHNAN,
   AGED 61 YEARS, NAGARAM AMSOM AND DESOM OF KOZHIKODE TALUK.

2. M.SURENDRARAJAN, S/O.BALAKRISHNAN,
   AGED 58 YEARS, NAGARAM AMSOM AND DESOM OF KOZHIKODE TALUK.

3. M.GOPINATH, S/O.BALAKRISHNAN,
   AGED 56 YEARS, NAGARAM AMSOM AND DESOM OF KOZHIKODE.

4. M.SASIKUMAR, S/O.BALAKRISHNAN,
   AGED 54 YEARS, NAGARAM AMSOM AND DESOM,
   OF KOZHIKODE TALUK.

5. M.VINOD, S/O.BALAKRISHNAN,
   AGED 50 YEARS, NAGARAM AMSOM AND DESOM OF KOZHIKODE TALUK.

BY ADV. SRI.C.P.MOHAMMED NIAS

RESPONDENTS:
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1. VIRUTHASSERY VAYALIL SURESH,
   S/O.MOOTHOLIKKANDI VASUDEVAN,
   AGED 40 YEARS, EDAKKAD AMSOM, PUTHIYANGADI DESOM, OF KOZHIKODE TALUK.

2. T.SUNIL, S/O.MOOTHOLIKKANDI VASUDEVAN,
   AGED 40 YEARS, EDAKKAD AMSOM,
   PUTHIYANGADI DESOM OF KOZHIKODE TALUK.

3. M.K.SUDHAKUMARI, AGED 52 YEARS,
D/O.BALAKRISHNAN, KALATHINKUNNU AMSOM AND DESOM
OF KOZHIKODE TALUK.

4. M.K.JAYAPRAKASHAN, S/O.SREEDHARAN,
AGED 50 YEARS, S/O.BALAKRISHNAN,
KALATHINKUNNU AMSOM AND DESOM OF KOZHIKODE TALUK.

5. VALAPPIL MOIDEENKOYA, AGED 72 YEARS,
MOOTHOLI AMSOM AND DESOM OF KOZHIKODE TALUK.

6. THAZHERY PARAMBATH MUSTHAFA,
AGED 69 YEARS, MAKKAD AMSOM AND DESOM,
OF KOZHIKODE TALUK.

7. C.K.JUBAIRIYA, AGED 56 YEARS,
THIRUVANGAD AMSOM AND DESOM, THALASSERY TALUK.

8. P.SHYLAJA, AGED 56 YEARS,
KALATHINKUNNU AMSOM AND DESOM OF KOZHIKODE TALUK.

9. C.RAMACHANDRAN, AGED 52 YEARS,
KALATHINKUNNU AMSOM AND DESOM, OF KOZHIKODE TALUK.

10. T.PATHIMMABI, AGED 73 YEARS,
KALATHINKUNNU AMSOM AND DESOM OF KOZHIKODE TALUK.

11. NEDUNGADI BANK, STAFF FEDERATION,
KALATHINKUNNU AMSOM AND DESOM OF KOZHIKODE TALUK.

12. K.SETHUMADHAVAN, AGED 75 YEARS,
KALATHINKUNNU AMSOM AND DESOM OF KOZHIKODE TALUK.

13. M.BADARUDHEEN HAJI, AGED 67 YEARS,
VELIMUKKU AMSOM AND DESOM OF KOZHIKODE TALUK.

14. VALIYAKUTTIYIL MOIDEEN HAJI,
AGED 61 YEARS, S/O.ABDUL HAJI, THRIKKOTTOOR
AMSOM AND DESOM OF KOZHIKODE TALUK.

15. P.GEETHA, W/O.KOMALAM, AGED 63 YEARS,
101/1, SANGEETHA, BARAD ROAD, VARADAMMAL GUARDEN,
CHENNAI.

16. SAGAR, AGED 37 YEARS, S/O.KOMALAM,
101/1, SANGEETHA, BARACK ROAD, VARAMMAL GUARDIAN,
CHENNAI.

17. SARIKA, AGED 35 YEARS, D/O.KOMALAM,
101/1 SANGEETHA, BARACK ROAD,
VARADAMMAL GUARDEN, CHENNAI.

18. SAMEERA, AGED 31 YEARS,
D/O.KOMALAM, 101/1, SANGEETHA, BARACK ROAD,
VARADAMMAL GUARDEN, CHENNAI.

19. T.VAGEESWARI, AGED 53 YEARS,
W/O.JANARDHANAN, KALATHINKUNNU AMSOM AND DESOM
OF KOZHIKODE TALUK.

20. SREEKUMAR, AGED 24 YEARS,
S/O.JAYAVARDHANAN, KALATHINKUNNU AMSOM AND DESOM
OF KOZHIKODE TALUK.

21. SREEHARI, AGED 22 YEARS,
S/O.JAYAVARDHANAN, KALATHINKUNNU AMSOM AND DESOM
OF KOZHIKIDE TALUK.

BY ADV. SRI.K.V.SOHAN FOR R14
SRI.V.N.RAMESAN NAMBISAN FOR R1 & R2

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 16/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON IA 3363/05 IN CRP 1186/05

DISMISSED

SD/- M.N.KRISHNAN, JUDGE.

16/10/2007

M.N.Krishnan, J.

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C.R.P.No.1186 of 2005

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Dated this the 16th day of October, 2007.

ORDER

This revision petition is preferred against the order of the Additional Munsiff - I, Kozhikode in I.A.No.2306 of 2005 in I.A.No.1916 of 2004 in O.S.No.896 of 1992. The matter is pending in final decree stage and the petitioners herein, who are defendants 1 to 5 are allotted shares along with the plaintiffs in the suit and now the prayer is to separate it and also allot the shares which they had purchased subsequent to the decree.

2. There are two items of properties, items 1 and 2. As per the right of the parties, defendants 1 to 5 are entitled to 6 out of 26 shares in item No.1 and 6 out of 13 shares in item No.2. Subsequent to the decree, they had purchased the shares of 2/26 and 2/13 and therefore they are entitled to a total share of 8/26 in item 1 and 8/13 in item No.2. The matter is pending adjudication at the final decree stage. The is no point in unnecessarily driving the party to separate litigations.

3. Therefore, the order under challenge is set aside and the order of the court below is set aside and the court below is directed to allot 8/26 shares in item No.1 and 8/13 shares in item No.2 in favour of defendants 1 to 5 separately by delinking from the shares of the plaintiffs along with whom the preliminary decree provides for allotment. Since the revision petitioners had chosen for segregation and as the Commissioner has already inspected the property and submitted his report, they may file an application for remitting the Commissioner's report and they may incur the expenses for the same and the court shall permit them and after receipt of the report, hear all the parties concerned and dispose of the matter in accordance with law. I am informed that a Second Appeal is pending and needless to say that everything will dependent upon the outcome of the said regular Second Appeal.

Civil Revision Petition is disposed of accordingly.

M.N.Krishnan,
Judge.

ess 16/10